

REMARKS

INTRODUCTION

In accordance with the foregoing, claims 1, 5, 9 and 11 have been amended and claims 3 and 7 have been canceled without prejudice or disclaimer. No new matter is being presented, and approval and entry are respectfully requested. Therefore, claims 1-12 are pending and under consideration. Reconsideration is respectfully requested.

REJECTION UNDER 35 U.S.C. §103

In the Office Action, at page 2, claims 1-12 were rejected under 35 U.S.C. §103(a) as being obvious over Hennick (U.S. Patent No. 5,189,945) in view of JP '939 (JP 08-200939). The rejection is traversed and reconsideration is requested.

Regarding the rejections of claims 1, 5 and 9, applicants note that the subject matter of claims 3 and 7 has been incorporated into claims 1, 5 and 9. Thus, claims 1, 5 and 9 now recite that the "covers, when closed, are downwardly sloped toward the guide members to allow condensed water formed on the inner surfaces of the covers to flow down toward the guide members." Since neither Hennick nor JP '939 disclose features that correspond to covers that slope downwardly toward guide members to allow condensed water formed on inner surfaces of the covers to flow down toward the guide members, applicants respectfully assert that claims 1, 5 and 9, as amended, are patentably distinguished from the reference.

Of course, regarding the subject matter of former claims 3 and 7, applicants acknowledge that downwardly sloping covers, as claimed, were found to be "well known" so as to aide in the flow of condensate along the inner surface of the cover and that, therefore, modifying the covers of Hennick in any direction to aide in the flow of condensate would have been obvious. Applicants respectfully disagree with this position.

According to MPEP 2143.01, obviousness "can only be established by . . . modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves." A review of Hennick shows that there is no explicit teaching anywhere in the reference of angling the covers of the housing portions. Further, although applicants count 13

separate illustrations of the covers, there is no evidence that any single cover is intended to lay at anything other than a flat angle. Lastly, since the cover must accommodate food inside the housing portions, and since users must be able to safely manipulate the handles of the covers, applicants respectfully assert that having anything other than flat cover angles would likely present problems in accommodating food in the housing portion as well as safety concerns for users when operating the Hennick device.

Therefore, applicants respectfully assert that it would not have been obvious to modify Hennick as suggested in the Office Action and that, therefore, amended claims 1, 5 and 9 are, thus, patentably distinguished over any combination of the prior art. Thus, the rejections of claims 1, 5, and 9 are believed to be overcome.

Regarding the rejections of claims 2-4, 6-8 and 10-12, it is noted that these claims are dependent on claims 1, 5 and 9, respectively, and are therefore allowable for at least the reasons noted above with respect to claims 1, 5, and 9.

CONCLUSION

In accordance with the foregoing, it is respectfully submitted that all outstanding objections and rejections have been overcome and/or rendered moot. And further, that all pending claims patentably distinguish over the prior art. Thus, there being no further outstanding objections or rejections, the application is submitted as being in condition for allowance which action is earnestly solicited.

If the Examiner has any remaining issues to be addressed, it is believed that prosecution can be expedited by the Examiner contacting the undersigned attorney for a telephone interview to discuss resolution of such issues.

If there are any underpayments or overpayments of fees associated with the filing of this Amendment, please charge and/or credit the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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